

**BEFORE THE
STATE BOARD OF MEDIATION
STATE OF MISSOURI**

TEAMSTERS, LOCAL 245,)	
)	
Petitioner,)	
)	
vs.)	Public Case No. R 86-032
)	
CITY OF SPRINGFIELD and)	
MISSOURI STATE COUNCIL 72,)	
AFSCME.)	
)	
Respondents.)	

JURISDICTIONAL STATEMENT

This case appears before the State Board of Mediation upon the filing by Teamsters, Local 245, of a petition for certification as public employee representative of six rabies control officers employed by the City of Springfield. A hearing was held on April 7, 1987, in Springfield, Missouri at which representatives of Local 245, the City of Springfield, and Missouri State Council 72, Local 1754, AFSCME were present. The case was heard by State Board of Mediation Chairman Mary Gant. Upon agreement by the parties, a record of the hearing was submitted to employer member Milton Talent and employee member James O'Mara for decision.

The State Board of Mediation is authorized to hear and decide issues concerning appropriate bargaining units by virtue of Sec. 105.525, RSMo. 1978. At the hearing, the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following findings of fact and conclusions of law.

FINDINGS OF FACT

Teamsters Local 245 has filed a petition to be certified as public employee representative for six employees of the Health Department of the City of Springfield, Missouri. The six employees in question were included in an appropriate bargaining unit certified by the Board in 1979. Missouri State Council 72, AFSCME v. City of

Springfield, Case No. 79-026 (SBM 1979). In that decision, the Board also certified Local 1754, AFSCME as the public employee representative. The issues now before the Board are whether the six rabies control officers should be severed from the broader unit of 291 employees that are presently represented by Local 1754 and whether there exists a contract bar which would make untimely Local 245's petition.

Rabies Control Officers: The City of Springfield has approximately 1,140 full time employees. In addition, there are 20 to 25 permanent part-time employees and approximately 100 temporary employees. These employees are assigned to one of 17 different departments, including the Health Department. Approximately 80 employees are assigned to the Health Department which is divided into three divisions: administrative services, environmental health services, and personal health and disease control. The six rabies control officers are assigned to the environmental health section. That section is responsible for several city function including milk and dairy regulation, food inspection, vector surveillance, environmental disease control, air quality control, and animal and rabies control. Employees assigned to these various programs are charged with investigating and enforcing code violations throughout the city. All of these employees have similar terms and conditions of employment in that they share similar work shifts, are paid at an hourly rate, receive overtime pay, have generally the same qualification requirements, and may operate city vehicles in the course of their employment.

Those employed as rabies control officers are required to have a high school diploma or its equivalent and must have the ability to read and write sufficiently to fill out report forms. Further, minimal physical standards are required in that the officers must be capable of lifting small animals weighing up to fifty pounds. The rabies control officers receive on-the-job training which entails working with their supervisor for approximately six weeks. After the initial training, the rabies control officers' main

responsibility is to impound stray animals inside the city limits and to investigate bite cases.

The rabies control officers either work an 8:00 a.m. to 5:00 p.m. shift or the second shift from 2:00 p.m. to 11:00 p.m. The officers report to the service center at the beginning of their shift to pick up the rabies control truck which is assigned to them. They then drive to the city animal shelter, where their duties include cleaning the shelter and feeding the impounded animals. After leaving the shelter, the rabies control officers patrol alternating sections of town in search of stray animals. While on patrol the rabies control officers remain in contact via radio with the police department. They are periodically requested to assist the police department with problems involving small animals. The animal control officers usually receive approximately five to six calls a day during the winter and approximately twenty calls a day during the summer months. The officers do have the power to issue citations for minor offenses such as allowing a dog to run at large. Like other health department employees who issue citations for city code violations, the rabies control officers are required to testify in court in connection with such cases.

Bargaining History: Over the past decade, the City of Springfield has negotiated with four different unions which have separately represented the firefighters, police officers, service employees, and those employees represented by AFSCME Local 1754. Since the bargaining unit of approximately 291 professional, administrative and technical employees was certified in 1979, Local 1754, AFSCME, has met and conferred annually with city officials concerning the terms and conditions of employment of those employees. At the hearing, the city introduced exhibits which indicate that Local 1754 has, each year since its certification, submitted proposals to city officials listing traditional bargaining table topics to be discussed such as wages, uniform allowances and fringe benefits. After those negotiations, the agreed upon proposals were submitted to the City Council for approval. Once passed by the Council, the ordinances

governed the changes in the employees' terms and conditions of employment. Those negotiations in which Local 1754 was involved have resulted in increased wages, costs of living adjustments, a uniform allowance and an approved retirement benefit plan. Although the record indicates that the six rabies control officers have not been active in negotiations nor cognizant of the role played by Local 1754 in the labor negotiations, the record clearly establishes that the rabies control officers have benefited from the involvement of the union in the past negotiating sessions.

CONCLUSIONS OF LAW

Teamsters, Local 245 has petitioned to be certified as public employee representative of a bargaining unit consisting of six persons employed as rabies control officers by the City of Springfield Health Department. The six rabies control officers were included in the appropriate bargaining unit certified by the Board in 1979. Missouri State Council 72, AFSCME v. City of Springfield, Public Case No. 79-026 (SBM 1979). Teamsters Local 245 argues, inter alia, that the rabies control officers possess a clear and identifiable community of interest which would "allow them to be severed from a broader bargaining unit" and that the six rabies control officers do comprise an appropriate unit for the purposes of bargaining. In contrast, the City and AFSCME Local 1754 contend that the evidence presented at the hearing does not require the Board to sever the six rabies control officers from the overall 291 member unit.

The Board is charged with deciding issues regarding the appropriateness of bargaining units by Sec. 105.525, RSMo. 1978, which provides in part: "Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the State Board of Mediation." Section 105.500(1), RSMo. 1978, defines "appropriate unit" as:

A unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned.

Missouri statutory law does not provide further guidelines for determining what constitutes a "clear and identifiable community of interest" nor does it set out any criteria as to the means to be used by the Board in resolving such issues. Accordingly, as stated in City of Kirkwood v. State Board of Mediation, 478 S.W.2d 690 (Mo.App. 1972), "it would appear that the General Assembly left the means to be used to the discretion of the Board." The instant case is the first case in which the Board has been asked to decide an issue concerning the severance of an alleged craft unit from a broader unit of employees. Because there are no Board decisions that provide guidelines for such severance cases, the Board may look to the National Labor Relations Board for guidelines in making such decisions.

The National Labor Relations board in Mallinckrodt v. IBEW, Local 1, 66 LRRM 1014 (1966) set out certain factors to be considered when a union seeks to carve out a craft unit from an existing bargaining unit. Those factors relevant to the instant case include:

1. Whether the proposed unit consists of a distinct and homogenous group of skilled journeyman craftsmen.
2. Whether the employees constitute a functionally distinct department, working in trades or occupations for which a tradition of separate representation exists.
3. The history of collective bargaining of the employees sought and the public body involved, with an emphasis on whether the existing patterns of bargaining are productive of stability in labor relations and whether such stability will be unduly disrupted by the destruction of the existing patterns of representation.

Teamsters Local 245 argues that the rabies control officers possess unique skills which separate them from all other city employees. The crux of petitioner's argument is that because no other employees are required to impound small animals and control rabies, then the rabies control officers must be considered a homogenous group of skilled journeyman craftsmen. We disagree. The evidence adduced at the hearing clearly establishes that the rabies control officers are not skilled craftsmen.

The rabies control officers are required only to have a high school diploma or its equivalent to be hired for the position. Their jobs do not require years of training as do the traditional craft employees such as plumbers and electricians. Such crafts have been recognized by the NLRB because those employees share special training and skills which set them apart from other non-skilled employees. In contrast, the rabies control officers receive only on-the-job training for six weeks and then are allowed to work without direct supervision. Accordingly, the rabies control officers cannot be considered a group of skilled journeymen craftsmen.

Similarly, the rabies control officers do not constitute a functionally distinct department working in a trade for which a tradition of separate representation exists. The record indicates that there is not past history of separate representation of the rabies control officers. Further, the Board is not convinced that the officers are within a functionally distinct department in that other health department employees are closely involved in code enforcement. That no other employees are involved with small animals and rabies control is not sufficient to require the Board to consider those assigned to the animal and rabies control program a functionally distinct department.

The third Mallinckrodt factor applicable to this case involves a consideration of the bargaining history between the rabies control officers and the City, and whether a termination of the status quo would unduly disrupt the existing stability of labor relations. The record substantiates that since 1979 the history of collective bargaining between the broader 291 employee unit represented by Local 1754 and the City of Springfield has produced stability in labor relations between those groups. The existing certified union has successfully negotiated with the City and obtained for the rabies control officers, as well as other employees, increased benefits and improved wages.

Closely related to the above-referenced third factor is the Board's concern with overfragmentation of bargaining units. That is, if the Board were to certify numerous unions that represent various employees within the City, the City's ability to establish

city-wide personnel practices would be seriously impeded. Teamsters Local 245 erroneously argues that the Supreme Court's ruling in Jackson County, Missouri v. State Board of Mediation, 690 S.W.2d 400 (Mo.banc 1985) precludes the Board from considering overfragmentation as a factor to be considered in determining the appropriateness of bargaining units. A close reading of Jackson County does not indicate that the Supreme Court rejected the Board's application of overfragmentation as a criteria in determining appropriate bargaining units. In the instant case, the Board concludes that to sever the six employees from a broader unit of some 291 employees with whom they share a community of interest would unduly disrupt the existing stability and labor relations enjoyed by the City and the 291 member bargaining unit represented by Local 1754. Accordingly, the Board holds that the six rabies control officers do not constitute an appropriate bargaining unit. Because the rabies control officers do not constitute an appropriate bargaining unit, the issue concerning a contract bar is moot.

DECISION

It is the decision of the State Board of Mediation that the six rabies control officers employed by the City of Springfield do not constitute an appropriate unit requiring severance from the 291-member professional, administrative and technical unit certified in Missouri State Council 72, AFSCME v. City of Springfield, Case No. 79-026 (SBM 1979). Accordingly, the petition of Teamsters Local 245 is hereby dismissed.

Signed this 9th day of July, 1987.

(SEAL)

STATE BOARD OF MEDIATION

/s/ Mary L. Gant

Mary L. Gant, Chairman

/s/ James O'Mara

James O'Mara, Employee Member

/s/ Milton O. Talent

Milton Talent, Employer Member